

2013–2014 Budget and Trailer Bill Provisions: The Judicial Branch

June 17, 2013

This document describes the details of the Budget Act of 2013 (AB 110) for the judicial branch as approved by the Legislature.

\$63 million augmentation (see AB 110, Budget Item 0250-101-0932, provision 12)

As a result of actions taken in Conference Committee, the Budget Act of 2013 includes an additional \$63 million over the Governor's proposed budget for the judicial branch.

- \$60 million is to be distributed to the trial courts utilizing the newly adopted funding allocation methodology.
- \$3 million will be shared among the Supreme Court (est. \$500,000), the Courts of Appeal (est. \$2.35 million), and the Habeas Corpus Resource Center (est. \$150,000).
- The budget includes accountability language for new trial court funding centered on the requirement that individual court plans be provided to the Legislature, no later than September 1, 2013, for how the trial courts anticipate using their share of the \$60 million to “maintain or increase public access to justice,” and a report to the Legislature, due between April 14 and May 14, 2014, describing how the courts used or are in the process of using their augmentation.
- Language previously linking the courts' plans to maintain and/or increase access to justice with their budget snapshots was not included in the final budget language.

While the \$60 million does not erase the current \$261 million deficit within the trial courts' budgets or the ongoing \$214 million reduction from previous years, it certainly begins to close the gap that had been widening until now.

Fund Balance Issue (see SB 75, sections 3, 4 and 8)

While both budget committees proposed to increase the amount of funds that a trial court can carry over from one fiscal year to the next from the current 1% to 12%, that element was finally rejected and the 1% fund balance limits remains. However, the Conference Committee did agree to adopt the Administration's proposed statutory exclusions from the calculation of the 1% fund balance.

The Conference Committee also adopted the Administration's proposal to authorize loans to the Trial Court Trust Fund from specified funds to support trial court operations for cash flow purposes during the fiscal year, as follows:

- The funds specified for internal borrowing are the State Court Facilities Construction Fund, the Immediate and Critical Needs Account of the State Court Facilities Construction Fund, and the Judicial Branch Workers' Compensation Fund;

2013–2014 Budget and Trailer Bill Provisions: The Judicial Branch

- The total amount of outstanding loans shall not exceed \$150 million at any time during the fiscal year;
- Courts must first provide a balanced budget approved by the Judicial Council in order to receive a loan; and
- Interest shall not be charged or paid on any loans and all loans shall be repaid within two years.

Efficiencies (see SB 75, sections 1, 2, 7, and 26)

Both the Governor's Proposed Budget (January) and the May Revise (May) included a list of 11 proposals for court efficiency, cost recovery, and new revenue developed by presiding judges and court executive officers at the request of the Judicial Council. Of those 11 proposals, the Senate Budget Committee recommended adopting eight, while the Assembly Budget Committee recommended only four. Ultimately, the Conference Committee only adopted the Assembly's recommendations as part of the budget. The four efficiency proposals included as part of the 2013–2014 Budget Act are as follows:

1. Increases from \$10 to \$15 the fee charged the plaintiff for each defendant in a small claims action. (Amends Code of Civil Procedure 116.232).
2. Allows courts to utilize the Franchise Tax Board's (FTB) Tax Intercept Program for collections without the prerequisite of submitting a debtor's social security number, although FTB may require a social security number if necessary to confirm the identity of the debtor. (Amends Government Code section 12419.10).
3. Increases from \$20 to \$50 the fee a court may charge for the exemplification of a record. (Amends Government Code section 70628).
4. Authorizes the court or the county financial officer to determine that a petition for repayment by a parent or guardian need not be filed when a finding is made that such repayment will pose a barrier to reunification or that repayment would be unjust under the circumstances of the case while preserving the parents' rights to appeal a petition for repayment. (Amends Welfare and Institutions Code section 903.45).

Audits (see AB 110, Budget Item 0250-101-0932, provision 15; SB 75, sections 24 and 25)

- Budget Bill Language allocates \$325,000 (not an augmentation of new funds, but an allocation, or allowance, from existing funds) to reimburse the California State Auditor for the costs of trial court audits incurred by the California State Auditor pursuant to Section 19210 of the Public Contract Code. No later than September 1, 2014, the Judicial Council shall report to the appropriate fiscal and policy committees of the Legislature on how the funding identified in this provision was allocated.

2013–2014 Budget and Trailer Bill Provisions: The Judicial Branch

- Trailer Bill Language has been adopted specifying that each state level judicial branch entity (i.e., the Administrative Office of the Courts (AOC), the Habeas Corpus Resource Center (HCRC), the Supreme Court, and the Courts of Appeal) shall pay its own reasonable and necessary costs to the Bureau of State Audits for the audits.
- The language further changes the audit schedule from an audit every four years for each court (including trial and appellate courts) and the HCRC, to a schedule of five judicial branch entities every two years.
- This revised audit schedule specifically excludes the AOC, which shall remain on an audit schedule of every two years and subject to an appropriation for this purpose.
- The new audit language further states that the five judicial branch entities selected every two years for audit shall be selected based on enumerated risk factor, and that audits shall be conducted subject to an appropriation for the audits.

(Amends Public Contracts Code section 19210)

Long Beach Court House and the Judicial Branch Construction Program (see SB 75, section 27)

- The budget does not include any money from the General Fund to the branch to pay for the annual service fee for the New Long Beach Courthouse. As such, the initial annual service fee for that facility (\$34.8 million in 2013–2014, and \$54.2 million in 2014–2015) shall be paid, as previously anticipated by the branch, from the Immediate and Critical Needs Account.
- The budget does specify, however, that the Judicial Council report to the Legislature on specified aspects of the Long Beach project in order to assess the value of the P3 project delivery methodology. The report must assess the cost effectiveness of the project compared to a minimum of three other projects constructed as part of the courts construction program.
- The Governor’s budget included a \$200 million transfer to the General Fund from the Immediate and Critical Needs Account to offset a \$200 million augmentation to the Trial Court Trust Fund. The May Revise amends this transfer to specify that it take place “upon the order of the Director of Finance.” This amendment is proposed to ensure that the transfer is not made in a manner that affects ongoing construction projects.
- The \$90 million borrowed from construction funds in 2011 has not been repaid in the 2013–2014 budget.

2013–2014 Budget and Trailer Bill Provisions: The Judicial Branch

Open Meetings: Public Access to Internal Judicial Council Groups (see AB 110, Budget Item 0250-101-0932, provision 15)

Budget Bill Language included in the budget requires the Judicial Council to adopt an open meetings rule of court with very specific components:

- The rule shall apply to any committee, subcommittee, advisory group, working group, task force, or similar multimember body that reviews issues and reports to the Judicial Council; and
- The rule shall provide for telephone access for requesting persons; and
- The rule shall establish public notice requirements for any meeting of a body subject to the rule.

Sunset for Public Presentation of Trial Court Budgets (see SB 75, section 6)

Trailer Bill Language eliminates the 2017 sunset on the provision that requires trial courts to provide public notice of, and an opportunity for input on, the trial court's proposed budget plan. (Amends Government Code section 68511.7)

Subordinate Judicial Officers (see AB 110, Budget Item 0250-101-0932, provision 9)

Sixteen subordinate judicial officer positions are authorized to be converted to judgeships in the 2013–2014 fiscal year pursuant to the authority described in subparagraph (B) of paragraph (1) of subdivision (c) of Section 69615 of the Government Code.

\$30 Court Reporter Fee Clean Up (see SB 75, section 3)

Clarifies that for proceedings lasting less than one hour, the \$30 fee charged for the reasonable cost of the services of an official court reporter shall be distributed to the court in which the fee was collected. (Amends Government Code section 68086)

Civil Interpreter Pilot Project

The budget will not provide the Judicial Council with authority to authorize the expenditure of \$6 million of unspent interpreter fund dollars on a civil interpreter pilot project. The plan, presented in the Assembly's version of the budget, would have appropriated \$6 million in unexpended court interpreter funds for a civil case interpreter pilot project intended to provide in-person interpreter services in three (3) selected counties. This item was added in response to the defeat of Senate Bill (SB) 597 (Lara), a measure supported by the Judicial Council, which was designed to appropriate the unexpended interpreter funds for civil cases. That bill was held on the Senate Suspense File and failed to move to the Senate Floor for a vote.